

REMARKS

The present application has been carefully studied and amended in view of the outstanding Office Action dated February 17, 2005, and reconsideration of that Action is requested in view of the following comments.

Claim 1 and dependent claims 2-12 specifically define an assembled ten pack carton separable into smaller multi-pack retail units. It is significant that each smaller retail unit has at least one open end exposing at least one of the packs therein. Equally significant is the fact that the carton blank includes front, rear, top, bottom and side wall structure that totally surrounds and encloses the packs within the formed carton.

Before the carton is separated into smaller multi-pack retail units, the packs are fully enclosed within the carton on all sides thereof, but when separated into multi-pack retail units each such retail unit has at least one open end exposing at least one of the packs therein.

Additionally, remaining independent claim 13 and dependent claim 14 define an arrangement similar to the ten pack carton blank of claim 1, but further specifically including glue dots inside the blank adjacent the perforated score lines on opposite sides of the blank for releasably securing packs within each of the smaller retail units when the carton is separated along the score lines.

The essential features of the present invention comprise a carton blank that totally encloses the packs within the assembled carton plus the feature of separating the assembled ten pack carton into smaller multi-pack retail units where each of the units has at least one open end exposing at least are of the packs therein.

Applicant respectfully submits that the subject matter of claims 1-14 is neither shown nor suggested by the prior art taken alone or in combination with one another. Basically, the rejections formulated by the Examiner rely on two primary references, namely Guyer US 2,888,132 and Cobler US 5,158,178, each of which falls short of suggesting the subject matter specifically recited in claims 1-14. The secondary references comprising Swift US 192,883 and Meyers US 3,276,574 do not address the shortcomings of Guyer and Cobler in that these references simply disclose divisible carton structure. Remaining secondary reference Focke et al US 4,932,534 ("Focke") simply shows glue dots for each of the packs within a carton.

Guyer is clearly different in that the carton fails to totally enclose the packs therein, and also because not one of the packs within the separated smaller units is secured to the carton structure. The Examiner brushes aside these limitations concluding the "obvious elimination of parts and their function", and improperly does so without any suggestion to that effect in the prior art. In this regard, the Examiner resorts to prohibited hindsight utilizing the present disclosure as the blueprint for such modification of the Guyer disclosure.

Cobler is also significantly different in that the smaller retail units do not include at least one open end exposing at least one of the packs therein. Instead, when the carton is ultimately separated into smaller units, each of those units totally surrounds the packs. Applicant respectfully disagrees with the Examiner's reconstruction of Cobler with the elimination of the dividers 214, 216 as an "obvious" elimination of such parts and their function. First, absent the present disclosure, there is no teaching or suggestion for such reconstruction of Cobler. Second, this reconstruction totally

destroys the integrity of the smaller retails units, and without the flaps 214, 216 the packs would easily fall out of the smaller units. Only through prohibited hindsight is the Examiner able to modify the Cobler reference in this manner. There is no suggestion in the prior art for such change.

Additionally, the rejection of claims 7-14 over the combination of Guyer, Swift, Meyers and Focke still falls short of suggesting the subject matter of these claims. For the reasons discussed above, this combination fails to disclose or suggest a carton blank that totally encloses the packs within the formed carton together with the feature of separable smaller retail units each of which has at least one end exposing at least one of the packs therein. Moreover, none of these references alone or in combination disclose or suggest the particular feature of transverse score lines and glue dots as recited in claims 13 and 14. Focke simply discloses securing each pack to the carton structure.

Accordingly, for the reasons expressed above it is believed that the present application is in condition for allowance and early notice to that effect is respectfully requested.

Respectfully submitted,

By Richard M. Beck

Richard M. Beck

Registration No.: 22,580

CONNOLLY BOVE LODGE & HUTZ LLP

1007 North Orange Street

P.O. Box 2207

Wilmington, Delaware 19899

(302) 658-9141; (302) 658-5614 (Fax)

Attorney for Applicant

386698